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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151110999-5999-01]

RIN 0648-BF53

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish

Fisheries; Specifications and Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes 2016-2018 specifications for Atlantic mackerel and the river herring and shad catch cap for Atlantic mackerel. NMFS previously set specifications for butterfish, longfin squid, and *Illex* squid for 3 years in 2015 (2015-2017) and, therefore, new specifications will not be included in this year's specification rulemaking. This action also proposes to adjust the butterfish mesh requirement, clarify the use of strengtheners in the butterfish fishery, and suspend indefinitely the pre-trip notification system requirement in the longfin squid fishery. These proposed specifications and management measures are intended to promote the sustainable utilization and conservation of the Atlantic mackerel, squid, and butterfish resources.

DATES: Public comments must be received by *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, telephone (302) 674-2331. The EA/RIR/IRFA is also accessible via the Internet at <http://www.greateratlantic.fisheries.noaa.gov>.

You may submit comments, identified by NOAA-NMFS-2015-0151, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0151, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope “Comments on 2016 MSB Specifications.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS, Greater Atlantic Regional Fisheries Office and by email to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Policy Analyst, (978) 281-9224, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

This rule proposes specifications, which are the combined suite of commercial and recreational catch levels established for one or more fishing years. The specifications process also allows for the modification of a select number of management measures, such as closure thresholds, gear restrictions, and possession limits. The Mid-Atlantic Fishery Management Council's process for establishing specifications relies on provisions within the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) and its implementing regulations, as well as requirements established by the Magnuson-Stevens Fishery Conservation and Management Act. Specifically, section 302(g)(1)(B) of the Magnuson-Stevens Act states that the Scientific and Statistical Committee (SSC) for each Regional Fishery Management Council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL). The Council's SSC met on May 13 and 14, 2015, to recommend an ABC for the 2016-

2018 Atlantic mackerel specifications.

The FMP's implementing regulations require the Council's Atlantic Mackerel, Squid, and Butterfish Monitoring Committee to consider and develop specification recommendations for each species. Since the Magnuson-Stevens Act requirements for the SSC to recommend ABC became effective, the role of all Council monitoring committees has largely been to recommend any reduction in catch limits from the SSC-recommended ABCs to account for management uncertainty, and to recommend other management measures (e.g., gear and/or possession restrictions) needed for the efficient management of the fishery. The Monitoring Committee met via webinar on May 21, 2015, to discuss recommendations for the 2016-2018 mackerel fishery.

The Council considered the recommendations of the SSC, the Monitoring Committee, and public comments at its June 9, 2015, meeting in Virginia Beach, VA, and made its specification recommendations. The Council submitted the recommendations, along with the required analyses, for agency review on August 24, 2015, with final submission on December 11, 2015. NMFS must review the Council's recommendations for the compliance with the FMP and applicable law, and conduct notice-and-comment rulemaking to propose and implement the final specifications.

The regulations for the FMP require the specification of annual catch limits (ACLs) and accountability measure (AM) provisions for mackerel and butterfish. Both squid species are exempt from the ACL/AM requirements because they have a life cycle of less than 1 year. In addition, the regulations require the specification of domestic annual harvest (DAH), domestic annual processing (DAP), total allowable level of foreign fishing (TALFF), joint venture processing (JVP), commercial and recreational annual catch targets (ACT), and the river herring

and shad catch cap for mackerel, the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species.

In addition to the specifications, this action will adjust the butterfish mesh requirement, clarify the use of strengtheners in the butterfish fishery, and suspend indefinitely the pre-trip notification system (PTNS) requirement in the longfin squid fishery.

Proposed 2016-2018 Specifications for Atlantic Mackerel

Table 1. Proposed 2016-2018 Specifications in metric tons (mt) for Atlantic Mackerel

Overfishing limit (OFL)	Unknown
ABC	19,898
ACL	11,009
Commercial ACT	9,294
Recreational ACT/ Recreational Harvest Limit (RHL)	614
DAH/DAP	9,177
JVP	0
TALFF	0

The most recent U.S. stock assessment for Atlantic mackerel was conducted by the Transboundary Resources Assessment Committee (TRAC) in March 2010. The 2010 TRAC Status Report indicated reduced productivity in the stock and a lack of older fish in both the survey and catch data; however, the status of the Atlantic mackerel stock is unknown because biomass reference points could not be determined. Due to this uncertainty in the 2010

assessment, the TRAC Status Report recommended that total annual mackerel catches not exceed 80,000 mt (average total U.S. and Canadian landings from 2006-2008) until new information is available.

Since 2010, the SSC has recommended a stock-wide ABC of 80,000 mt based on the recommendation in the TRAC Status Report. NMFS previously implemented specifications that matched the recommendation in the TRAC Status Report for the 2013-2015 fishing years as part of the 2013 specifications for the FMP (January 16, 2013; 78 FR 3346). However, more recent data has shown that 2006-2008 was a period of unusually high catches. Given the uncertainty in the 2010 mackerel assessment, low U.S. landings since 2011, and results from a 2014 Canadian assessment suggesting the stock is doing poorly, the SSC concluded that the foundation that it used for developing its previous ABC recommendation was inappropriate. In order to capture the highly periodic nature of mackerel catches, NMFS implemented a stock-wide ABC of 40,165 mt for the 2015 fishing year only. 40,165 mt is the median of U. S. and Canadian catches from 1978-2013, a time period during which fisheries operations were relatively consistent and foreign fleets were not in operation.

For 2016-2018, the SSC recommended an ABC of 19,898 mt. The SSC concluded that the mackerel stock is in a depleted state relative to historical levels of abundance, and that the foundation (which assumed sustainable catch in the period 1978-2013) previously used to establish the ABC was no longer valid. The SSC used 50 percent of the median catch to calculate the new ABC, because the SSC's review of a management strategy evaluation concluded that this method came closest to meeting (while not exceeding) the acceptable probability of overfishing under the Council's risk policy. The median value of the long term

mackerel catch series (1978-2014) is 39,797 mt. Accordingly, the SSC recommended an ABC of half that, or 19,898 mt, for 2016-2018.

According to the FMP, the mackerel ABC must be calculated using the formula: U.S. ABC = Stock-wide ABC – C, where C is the estimated catch of mackerel in Canadian waters for the upcoming fishing year. Canadian catch was estimated at 8,889 mt, which is the Canadian quota (8,000 mt) plus 10 percent to account for management uncertainty (the same ratio that the Council has used for management uncertainty in the U.S. fishery). The Council deducted estimated Canadian catch from the stock-wide ABC to recommend a U.S. ABC of 11,009 mt (19,898 mt minus 8,889 mt).

The Council recommended a recreational allocation of 683 mt (6.2 percent of the U.S. ABC). The Recreational ACT is equal to the Recreational Harvest Limit (RHL), the effective cap on recreational catch. The proposed Recreational ACT of 614 mt (90 percent of 683 mt) accounts for uncertainty in recreational catch and discard estimates.

For the commercial mackerel fishery, the Council recommended a commercial fishery allocation of 10,327 mt (93.8 percent of the U.S. ABC, the portion of the ACL that was not allocated to the recreational fishery). The recommended Commercial ACT of 9,294 mt (90 percent of 10,327 mt) compensates for management uncertainty, uncertainty in discard estimates, and possible misreporting of mackerel catch. The Commercial ACT would be further reduced by a discard rate of 1.26 percent to arrive at the proposed DAH of 9,177 mt. The DAH would be the effective cap on commercial catch.

Consistent with the Council's recommendation, NMFS proposes Atlantic mackerel specifications that would set the U.S. ACL at 11,009 mt, the Commercial ACT at 9,294 mt, the

DAH and DAP at 9,177 mt, and the Recreational ACT at 614 mt.

Additionally, as recommended by the Council, NMFS proposes to maintain JVP at zero (the most recent allocation was 5,000 mt of JVP in 2004). In the past, the Council recommended a JVP greater than zero because it believed U.S. processors lacked the ability to process the total amount of mackerel that U.S. harvesters could land. However, for the past 11 years, the Council has recommended zero JVP because U.S. shoreside processing capacity for mackerel has expanded. The Council concluded that processing capacity was no longer a limiting factor relative to domestic production of mackerel.

The Magnuson-Stevens Act provides that the specification of TALFF, if any, shall be the portion of the optimum yield (OY) of a fishery that will not be harvested by U.S. vessels.

TALFF would allow foreign vessels to harvest U.S. fish and sell their product on the world market, in direct competition with U.S. industry efforts to expand exports. While a surplus existed between ABC and the mackerel fleet's harvesting capacity for many years, that surplus has disappeared due to downward adjustments of the specifications in recent years. Based on analysis of the global mackerel market and possible increases in U.S. production levels, the Council concluded that specifying a DAH/DAP that would result in zero TALFF would yield positive social and economic benefits to both U.S. harvesters and processors, and to the Nation. For these reasons, consistent with the Council's recommendation, NMFS proposes to specify DAH at a level that can be fully harvested by the domestic fleet, thereby precluding the specification of a TALFF, in order to support the U.S. mackerel industry.

2016-2018 Proposed River Herring and Shad Catch Cap in the Atlantic Mackerel Fishery

In order to limit river herring and shad catch, Amendment 14 to the FMP (February 24,

2014; 79 FR 10029) allows the Council to set a river herring and shad cap through annual specifications. For 2015, we implemented a cap that was set at 89 mt initially, but if mackerel landing surpass 10,000 mt before closure, then the cap would increase to 155 mt. The 89-mt cap represents the median annual river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of mackerel per trip from 2005-2012. These were the years when the fishery caught about 13,000 mt of mackerel. The 155-mt cap was based on the median river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of mackerel per trip from 2005-2012, adjusted to the 2015 DAH (20,872 mt). This two-tier system was implemented to encourage the fishery to avoid river herring and shad regardless of the rate of mackerel catches.

For 2016-2018, the Council recommended that the cap be set at 82 mt. For 2016-2018, the proposed mackerel catch limit is 9,177 mt, which is 8.23 percent less than the river herring and shad catch cap increase trigger set in 2015 (10,000 mt). The Council recommended the river herring and shad cap should be reduced by the same proportion as the catch cap increase trigger, resulting in a cap of 82 mt (8.23 percent less than 89 mt). Once the mackerel fishery catches 95 percent of the river herring and shad cap, we will close the directed mackerel fishery and implement a 20,000-lb (9.08-mt) mackerel incidental catch trip limit for the remainder of the year.

Butterfish Mesh Requirement Adjustment and Clarification

The Council recommended increasing the possession limit for vessels fishing with mesh smaller than 3 inches (7.62 cm) from 2,500 lb (1.13 mt) to 5,000 lb (2.27 mt). The 3-inch (7.62-cm) mesh requirement is designed to allow escapement of juvenile butterfish during directed butterfish fishing. Currently, vessels holding a longfin squid and butterfish moratorium permit

and fishing with nets that have a mesh size smaller than 3 inches (7.62 cm) are allowed to retain up to 2,500 lb (1.13 mt) of butterfish. This action proposes to increase the possession limit to 5,000 lb (2.27 mt) of butterfish for those vessels fishing with mesh smaller than 3 inches (7.62 cm).

The Council also recommended a clarification regarding net strengtheners used in the butterfish fishery. The regulations do not directly address whether strengtheners are allowed in the operation of the butterfish fishery. This action proposes to amend the regulations to clearly state that 5-inch (12.7-cm) square or diamond, or greater, mesh size strengtheners may be used outside the 3-inch (7.62-cm) mesh to avoid breaking nets during large hauls.

Suspension of the Longfin Squid Pre-Trip Notification System Requirement

NMFS proposes an indefinite suspension of the longfin squid PTNS requirement for vessels with longfin squid moratorium permits that want to retain more than 2,500 lb (1,13 mt) of longfin squid. This requirement was implemented via Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish FMP (75 FR 11441, March 11, 2010) to improve the selection process of vessels being observed for purposes of monitoring the longfin squid fishery's butterfish cap. However, the new Standardized Bycatch Reporting Methodology (SBRM) requires observers to adhere to a region/gear intercept selection procedure that conflicts with use of the PTNS for assigning observers. This action proposes to resolve the resulting logistical problems by relying on observer coverage through the new SBRM, and eliminating the PTNS requirement.

Corrections

This proposed rule contains minor adjustment to existing regulations to correct references to the gear stowage regulations.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows.

Description of the Reasons Why Action by the Agency is Being Considered

This action proposes 2016-2018 specifications for Atlantic mackerel and the river herring and shad catch cap. It also proposes management measures for the butterfish and longfin squid fisheries. The preamble to this proposed rule includes a complete description of the reasons why the Council and NMFS are considering this action, and these are not repeated here.

Statement of the Objectives of, and Legal Basis for, this Proposed Rule

This action proposes the 2016-2018 specifications for Atlantic mackerel. It also proposes to modify the possession limit for butterfish using a mesh smaller than 3 inches (7.62 cm), and to suspend PTNS requirements for vessels targeting longfin squid. The preamble to this proposed rule includes a complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, and these are not repeated here.

Description and Estimate of the Number of Small Entities to Which this Proposed Rule Would Apply

The proposed alternatives apply to vessels that hold Atlantic mackerel, squid, and butterfish limited access permits. Based on permit data for 2014, 370 separate vessels hold Atlantic mackerel, squid, and butterfish limited access permits, 271 entities own those vessels, and, based on current Small Business Administration (SBA) definitions, 259 of these are small entities. Of the 259 small entities, 25 had no revenue in 2014 and those entities with no revenue are considered small entities for the purpose of this analysis. All of the entities that had revenue fell into the finfish or shellfish categories, and the SBA definitions for those categories for 2014 are \$20.5 million for finfish fishing and \$5.5 million for shellfish fishing.

The only proposed alternative that involves increased restrictions applies to Atlantic mackerel limited access permits so those numbers are listed separately (they are a subset of the above entities). Based on permit data for 2014, 139 separate vessels hold Atlantic mackerel limited access permits, 105 entities own those vessels, and based on current SBA definitions, 97 are small entities. Of the 97 small entities, 3 had no revenue in 2014 and those entities with no revenue are considered small entities for the purpose of this analysis. Of the entities with revenues, their average revenues in 2014 were \$1,212,230. Sixty entities had primary revenues from finfish fishing and 34 had their primary revenues from shellfish fishing.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of this Proposed Rule

The proposed action contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction

Act (PRA). This requirement has been submitted to OMB for approval under Control Number 0648-0679.

Under the proposed action, all limited access longfin squid vessels intending to land more than 2,500 lb (1.13 mt) of longfin squid will no longer be required to call PTNS to request an observer. This would remove the information collection requirement to reduce logistical issues for the Northeast Fishery Observer Program and reduce burden for industry participants. The reduction in burden estimates for these new requirements apply to all limited access longfin squid vessels. In a given fishing year, NMFS estimates that removal of this reporting requirement will reduce time burden by 256 hours and reduce cost to the government by \$25,943 from that which was previously approved under OMB Control Number 0648-0679.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Regional Administrator (see **ADDRESSES**), or by e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-5806.

Notwithstanding any other provisions of the law, no person is required to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: http://www.cio.noaa.gov/services_programs/prasubs.html.

Federal Rules Which May Duplicate, Overlap, or Conflict with this Proposed Rule

This action contains no other compliance costs. It does not duplicate, overlap, or conflict with any other Federal law.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The Atlantic mackerel commercial DAH proposed in this action (9,177 mt) represents a reduction from status quo (2015 DAH = 20,872 mt). Despite the reduction, the proposed DAH is above recent U.S. landings; mackerel landings for 2012-2014 averaged 5,136 mt. Thus, the reduction should not have more than minimal impact on the affected small entities compared to recent operation of the fishery (2012-2014, and 2015 landings to date appear similar to 2014). Even though the proposed 2016-2018 quota is lower than 2015, it would still allow more catch compared to any year from 2012-2014.

The proposed river herring and shad catch cap in the Atlantic mackerel fishery has the potential to limit the fishery from achieving its full mackerel quota if the river herring and shad encounter rates are high, but it is very unlikely that this fishery would close before exceeding the levels of landings experienced since 2010, when landing have been less than 11,000 mt. Based on the operation of the cap in 2014 and first half of 2015 (the first years of the cap), as long as the fishery can maintain relatively low river herring and shad catch rates, the proposed lower cap should not negatively impact fishery participants. However, a few large river herring and shad bycatch events could potentially shut down the mackerel fishery early. At 2014 prices (\$491/mt), the proposed mackerel quota (9,177 mt) could potentially generate about \$4.5 million. While the performance of the cap in 2014-2015 suggests that the fishery can operate with very

low river herring and shad catch rates, if river herring and shad catch rates happen to be relatively high then most of the mackerel catch, and associated revenues could be forgone.

The proposed butterfish mesh requirement adjustment would allow more butterfish to be retained with small mesh gear; therefore, there should be no negative impacts on the relevant entities.

The proposed suspension of PTNS requirement for longfin squid would reduce administrative burden, so there should be no negative impacts on the relevant entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: January 14, 2016.

Eileen Sobeck,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.11, paragraphs (n)(1)(i), (ii), (iii), and (iv) are revised to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(n) * * *

(1) * * *

(i) A vessel issued a limited access Atlantic mackerel permit, as specified at § 648.4(a)(5)(iii), must, for the purposes of observer deployment, have a representative provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, telephone number or email address for contact; and the date, time, port of departure, gear type, and approximate trip duration, at least 48 hr, but no more than 10 days, prior to beginning any fishing trip, unless it complies with the possession restrictions in paragraph (n)(1)(iii) of this section.

(ii) A vessel that has a representative provide notification to NMFS as described in paragraph (n)(1)(i) of this section may only embark on a mackerel trip without an observer if a vessel representative has been notified by NMFS that the vessel has received a waiver of the observer requirement for that trip. NMFS shall notify a vessel representative whether the vessel must carry an observer, or if a waiver has been granted, for the specific mackerel trip, within 24 hr of the vessel representative's notification of the prospective mackerel trip, as specified in paragraph (n)(1)(i) of this section. Any request to carry an observer may be waived by NMFS. A vessel that fishes with an observer waiver confirmation number that does not match the mackerel trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing mackerel except as specified in paragraph (n)(1)(iii) of this section. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(iii) *Trip limits.* A vessel issued a limited access mackerel permit, as specified in § 648.4(a)(5)(iii), that does not have a representative provide the trip notification required in paragraph (n)(1)(i) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of mackerel per trip at any time, and may only land mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(iv) If a vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), intends to possess, harvest, or land more than 20,000 lb (9.07 mt) of mackerel per trip or per calendar day, and has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry an observer, and then cancels that trip, the representative is required to provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, and telephone number or email address for contact, and the intended date, time, and port of departure for the cancelled trip prior to the planned departure time. In addition, if a trip selected for observer coverage is cancelled, then that vessel is required to carry an observer, provided an observer is available, on its next trip.

* * * * *

3. In § 648.14, paragraphs (g)(2)(ii)(E), (g)(2)(iii)(A) and (C), and (g)(2)(iv) are revised to read as follows:

§ 648.14 Prohibitions.

* * * * *

(g) * * *

(2) * * *

(ii) * * *

(E) Possess more than 5,000 lb (2.27 mt) of butterfish, unless the vessel meets the minimum mesh requirements specified in § 648.23(a).

* * * * *

(iii) * * *

(A) Fish with or possess nets or netting that do not meet the gear requirements for Atlantic mackerel, longfin squid, *Illex*, or butterfish specified in § 648.23(a); or that are modified, obstructed, or constricted, if subject to the minimum mesh requirements, unless the nets or netting are stowed and not available for immediate use as defined in § 648.2 or the vessel is fishing under an exemption specified in § 648.23(a)(4).

* * * * *

(C) Enter or fish in the mackerel, squid, and butterfish bottom trawling restricted areas, as described in § 648.23(a)(5).

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(iv) *Observer requirements for longfin squid fishery.* Fail to comply with any of the provisions specified in § 648.11.

* * * * *

4. In § 648.23, paragraph (a) is revised to read as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

(a) *Mesh restrictions and exemptions.* Vessels subject to the mesh restrictions in this paragraph (a) may not have available for immediate use any net, or any piece of net, with a mesh size smaller than that specified in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) *Butterfish fishery.* Owners or operators of otter trawl vessels possessing more than 5,000 lb (2.27 mt) of butterfish harvested in or from the EEZ may only fish with nets having a

minimum codend mesh of 3 inches (7.62 cm) diamond mesh, inside stretch measure, applied throughout the codend for at least 100 continuous meshes forward of the terminus of the net, or for codends with less than 100 meshes, the minimum mesh size codend shall be a minimum of one-third of the net, measured from the terminus of the codend to the headrope.

(2) *Longfin squid fishery.* (i) Owners or operators of otter trawl vessels possessing longfin squid harvested in or from the EEZ may only fish with nets having a minimum mesh size of $2\frac{1}{8}$ inches (54 mm) during Trimesters I (Jan-Apr) and III (Sept-Dec), or $1\frac{7}{8}$ inches (48 mm) during Trimester II (May-Aug), diamond mesh, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or, for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the headrope, unless their gear is stowed and not available for immediate use as defined in § 648.2.

(ii) *Jigging exemption.* During closures of the longfin squid fishery resulting from the butterfish mortality cap, described in § 648.24(c)(3), vessels fishing for longfin squid using jigging gear are exempt from the closure possession limit specified in § 648.26(b), provided that all otter trawl gear is stowed and not available for immediate use as defined in § 648. 2.

(3) *Net obstruction or constriction.* (i) Owners or operators of otter trawl vessels fishing for and/or possessing butterfish shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 3 inches (7.62 cm) diamond mesh, inside stretch measure. “Top of the regulated portion of the net” means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor.

However, owners or operators of otter trawl vessels fishing for and/or possessing butterfish may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond or square mesh, inside stretch measure.

(ii) Owners or operators of otter trawl vessels fishing for and/or possessing longfin squid shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than $2\frac{1}{8}$ inches (54 mm) during Trimesters I (Jan-Apr) and III (Sept-Dec), or $1\frac{7}{8}$ inches (48 mm) during Trimester II (May-Aug), diamond mesh, inside stretch measure. “Top of the regulated portion of the net” means the 50 percent of the entire regulated portion of the net that would not be in contact with the ocean bottom if, during a tow, the regulated portion of the net were laid flat on the ocean floor. However, owners or operators of otter trawl vessels fishing for and/or possessing longfin squid may use net strengtheners (covers), splitting straps, and/or bull ropes or wire around the entire circumference of the codend, provided they do not have a mesh opening of less than 5 inches (12.7 cm) diamond mesh, inside stretch measure. For the purposes of this requirement, head ropes are not to be considered part of the top of the regulated portion of a trawl net.

(iii) The owner or operator of a fishing vessel shall not use any mesh construction, mesh configuration, or other means that effectively decreases the mesh size below the minimum mesh size, except that a liner may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than 10 meshes forward of the aftermost portion of the net. The inside webbing of the codend shall be the same circumference or less than the outside webbing (strengtheners). In addition, the inside webbing shall not be more than 2

ft (61 cm) longer than the outside webbing.

(4) *Illex fishery*. Seaward of the following coordinates, connected in the order listed by straight lines except otherwise noted, otter trawl vessels possessing longfin squid harvested in or from the EEZ and fishing for *Illex* during the months of June, July, August, in Trimester II, and September in Trimester III are exempt from the longfin squid gear requirements specified in paragraph (a)(2) of this section, provided that landward of the specified coordinates they do not have available for immediate use, as defined in §648.2, any net, or any piece of net, with a mesh size less than $1\frac{7}{8}$ inches (48 mm) diamond mesh in Trimester II, and $2\frac{1}{8}$ inches (54 mm) diamond mesh in Trimester III, or any piece of net, with mesh that is rigged in a manner that is prohibited by paragraphs (a)(2) and (a)(3)(ii) of this section.

Point	N. lat.	W. long.
M0	43°58.0'	[¹]
M1	43°58.0'	67°22.0'
M2	43°50.0'	68°35.0'
M3	43°30.0'	69°40.0'
M4	43°20.0'	70°00.0'
M5	42°45.0'	70°10.0'
M6	42°13.0'	69°55.0'
M7	41°00.0'	69°00.0'
M8	41°45.0'	68°15.0'

M9	42°10.0'	67°10.0' [²]
M10	41°18.6'	66°24.8' [²]
M11	40°55.5'	66°38.0'
M12	40°45.5'	68°00.0'
M13	40°37.0'	68°00.0'
M14	40°30.0'	69°00.0'
M15	40°22.7'	69°00.0'
M16	40°18.7'	69°40.0'
M17	40°21.0'	71°03.0'
M18	39°41.0'	72°32.0'
M19	38°47.0'	73°11.0'
M20	38°04.0'	74°06.0'
M21	37°08.0'	74°46.0'
M22	36°00.0'	74°52.0'
M23	35°45.0'	74°53.0'
M24	35°28.0'	74°52.0'
M25	35°28.0'	[³]

[¹] The intersection of 43°58.0'N. latitude and the US-Canada Maritime Boundary.

[²] Points M9 and M10 are intended to fall along and are connected by the US-Canada Maritime

Boundary.

[³] The intersection of 35°28.0'N. latitude and the outward limit of the U.S. EEZ.

(5) *Mackerel, squid, and butterflyfish bottom trawling restricted areas*—(i) *Oceanographer Canyon*. No permitted mackerel, squid, or butterflyfish vessel may fish with bottom trawl gear in the Oceanographer Canyon or be in the Oceanographer Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed and not available for immediate use as defined in § 648.2. Oceanographer Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

OCEANOGRAPHER CANYON

Point	N. lat.	W. long.
OC1	40°10.0'	68°12.0'
OC2	40°24.0'	68°09.0'
OC3	40°24.0'	68°08.0'
OC4	40°10.0'	67°59.0'
OC1	40°10.0'	68°12.0'

(ii) *Lydonia Canyon*. No permitted mackerel, squid, or butterflyfish vessel may fish with bottom trawl gear in the Lydonia Canyon or be in the Lydonia Canyon unless transiting. Vessels may transit this area provided the bottom trawl gear is stowed and not available for immediate use as defined in § 648.2. Lydonia Canyon is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional

Administrator upon request):

LYDONIA CANYON

Point	N. lat.	W. long.
LC1	40°16.0'	67°34.0'
LC2	40°16.0'	67°42.0'
LC3	40°20.0'	67°43.0'
LC4	40°27.0'	67°40.0'
LC5	40°27.0'	67°38.0'
LC1	40°16.0'	67°34.0'

* * * * *

5. In § 648.26, paragraphs (b)(2) and (d)(2) are revised to read as follows:

§ 648.26 Mackerel, squid, and butterflyfish possession restrictions.

* * * * *

(b) * * *

(2) During a closure of the directed fishery for longfin squid for Trimester II, a vessel with a longfin squid/butterfish moratorium permit that is on a directed *Illex* squid fishing trip (i.e., possess over 10,000 lb (4.54 mt) of *Illex*) and is seaward of the coordinates specified at § 648.23(a)(4), may possess up to 15,000 lb (6.80 mt) of longfin squid. Once landward of the coordinates specified at § 648.23(a)(4), such vessels must stow all fishing gear, as defined in § 648.2, in order to possess more than 2,500 lb (1.13 mt) of longfin squid per trip.

* * * * *

(d) * * *

(2) A vessel issued longfin squid/butterfish moratorium permit fishing with mesh less than 3 inches (76 mm) may not fish for, possess, or land more than 5,000 lb (2,27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day, provided that butterfish harvest has not reached the DAH limit and the reduced possession limit has not been implemented, as described in § 648.24(c)(1). When butterfish harvest is projected to reach the DAH limit (as described in § 648.24(c)(1)), these vessels may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day.

* * * * *

6. In § 648.80, paragraphs (a)(4)(iv)(B)(2) and (g)(5)(i) are revised to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(4) * * *

(iv) * * *

(B) * * *

(2) *Net size requirements.* Vessels may fish any combination of roundfish and flatfish gillnets, up to 50 nets. Such vessels, as defined in § 648.2, may stow additional nets not to exceed 150, counting the deployed net. Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets,

counting the deployed net.

* * * * *

(g) * * *

(5) * * *

(i) *Nets of mesh size less than 2.5 inches (6.4 cm).* A vessel lawfully fishing for small-mesh multispecies in the GOM/GB, SNE, or MA Regulated Mesh Areas, as defined in paragraphs (a), (b), and (c) of this section, with nets of mesh size smaller than 2.5 inches (6.4-cm), as measured by methods specified in paragraph (f) of this section, may use net strengtheners (covers, as described at § 648.23(a)(3)), provided that the net strengthener for nets of mesh size smaller than 2.5 inches (6.4 cm) complies with the provisions specified under § 648.23(a)(3)(iii).

* * * * *

7. In § 648.90, paragraphs (a)(5)(i)(D)(2) and (3) are revised to read as follows:

§ 648.90 NE Multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(5) * * *

(i) * * *

(D) * * *

(2) *Atlantic halibut.* If NMFS determines the overall ACL for Atlantic halibut is exceeded, as described in this paragraph (a)(5)(i)(D)(2), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented and any vessel issued a NE multispecies permit or a limited access monkfish permit and fishing under the

monkfish Category C or D permit provisions, may not fish for, possess, or land Atlantic halibut for the fishing year in which the AM is implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Halibut Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Halibut Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for Atlantic halibut is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and there are AMs for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.*, the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC HALIBUT TRAWL GEAR AM AREA

Point	N. Latitude	W. Longitude
1	42°00'	69°20'

2	42°00'	68°20'
3	41°30'	68°20'
4	41°30'	69°20'

ATLANTIC HALIBUT FIXED GEAR AM AREA 1

Point	N. Latitude	W. Longitude
1	42°30'	70°20'
2	42°30'	70°15'
3	42°20'	70°15'
4	42°20'	70°20'

ATLANTIC HALIBUT FIXED GEAR AM AREA 2

Point	N. Latitude	W. Longitude
1	43°10'	69°40'
2	43°10'	69°30'
3	43°00'	69°30'
4	43°00'	69°40'

(3) *Atlantic wolffish*. If NMFS determines the overall ACL for Atlantic wolffish is exceeded, as described in this paragraph (a)(5)(i)(D)(3), by any amount greater than the management uncertainty buffer, the applicable AM areas shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by more than 20 percent, the applicable AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb

lines, unless otherwise noted. Any vessel issued a limited access NE multispecies permit and fishing with trawl gear in the Atlantic Wolffish Trawl Gear AM Area may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). When in effect, a limited access NE multispecies permitted vessel with gillnet or longline gear may not fish or be in the Atlantic Wolffish Fixed Gear AM Areas, unless transiting with its gear stowed and not available for immediate use as defined in § 648.2, or such gear was approved consistent with the process defined in § 648.85(b)(6). If a sub-ACL for Atlantic wolffish is allocated to another fishery, consistent with the process specified at § 648.90(a)(4), and AMs are developed for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (*i.e.*, the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

ATLANTIC WOLFFISH TRAWL GEAR AM AREA

Point	N. Latitude	W. Longitude
1	42°30'	70°30'
2	42°30'	70°15'
3	42°15'	70°15'
4	42°15'	70°10'
5	42°10'	70°10'
6	42°10'	70°20'

7	42°20'	70°20'
8	42°20'	70°30'

ATLANTIC WOLFFISH FIXED GEAR AM AREA 1

Point	N. Latitude	W. Longitude
1	41°40'	69°40'
2	41°40'	69°30'
3	41°30'	69°30'
4	41°30'	69°40'

ATLANTIC WOLFFISH FIXED GEAR AM AREA 2

Point	N. Latitude	W. Longitude
1	42°30'	70°20'
2	42°30'	70°15'
3	42°20'	70°15'
4	42°20'	70°20'

* * * * *

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